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ALLIED PROPERTY AND CASUALTY
6 INSURANCE COMPANY, AMCO INSURANCE
COMPANY, and NATIONWIDE MUTUAL
7 INSURANCE COMPANY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10 SAN DIEGO DIVISION

11 1800 SOUTH MAPLE STREET, LLC, a
12 California Limited Liability Company;
RALPH J. GIANNELLA, an individual;
13 GIANNELLA PROPERTIES, INC., a
California Corporation; WILLIAM G.
14 AYYAD, an individual; WILLIAM G.
AYYAD, INC., a California Corporation;
15 an PREMIER COMMUNITIES, LLC, a
California Limited Liability Company,

16 Plaintiff,

17 vs.

18 ALLIED PROPERTY AND
19 CASUALTY INSURANCE COMPANY,
an Iowa Corporation; AMCO
20 INSURANCE COMPANY, an Iowa
Corporation; NATIONWIDE MUTUAL
21 INSURANCE COMPANY, an Ohio
Corporation, and DOES 1 to 100,
22 inclusive,

23 Defendants.

CASE No. 07-CV-2030

**DEFENDANTS OPPOSITION TO
PLAINTIFFS' *EX PARTE* APPLICATION
FOR STAY PROCEEDINGS PENDING
MOTION TO AMEND COMPLAINT**

Action Filed: September 10, 2007

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25 **I. INTRODUCTION**

26 Defendants oppose Plaintiffs' ex parte application for a stay of these proceedings pending
27 the ruling on their motion to amend their complaint on the ground that they do not show good
28 cause or prejudice in support thereof.

1. A stay, *presumably excepting the motion itself to amend the complaint*, would not promote judicial economy or efficiency. There is no need for a stay and no prejudice if the proceedings are not stayed.

2. If the Court denies the motion to amend, which defendants will strongly urge, valuable and useful time will have been wasted awaiting activities that must be undertaken, to wit, discovery, in any forum.

II. ARGUMENT

1. Plaintiffs fail to show good cause

Plaintiffs point to only three activities in which they must engage before the hearing on their motion to amend their complaint on February 29, 2008: (1) a meet and confer with opposing counsel on or before February 6th; (2) lodging of a joint discovery plan on or before February 15th; and (3) the exchange of initial disclosure on February 22nd. These tasks are not onerous and all are useful. There is no discovery pending. No motions are pending, other than plaintiffs' motion to amend the complaint, which, we are certain, they do not want stayed. There is no trial date; there are no other pretrial activities.

At the first ENE Conference the court ordered Plaintiffs to produce for defendants documents that would identify the insureds and their relationship to the 1800 South Maple Street condominium project so that coverage could be evaluated and further ENE Procedures undertaken. If these future proceedings are to bear fruit, the case must move forward absent a showing of good cause, which has not been made in this case. Civ. Rule 16.5(1)(8).

2. If the Court denies the motion to amend, an outcome that defendants urge, valuable time will have been wasted by an unnecessary stay of proceedings. Moreover, the

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1 discovery-related activities in which the parties must engage before the hearing on the motion to
2 amend will be useful regardless of the forum in which this dispute is adjudicated.


3 For the foregoing reasons, the defendants urge the Court to deny the application for stay.

4 Respectfully submitted,

5 Dated: January 30, 2008

LONG & LEVIT LLP

7 By


HOWARD M. GARFIELD
Attorney for Defendants
ALLIED PROPERTY AND
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